

E-Filed on July 10, 2007

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5 Special Litigation Counsel for USACM Liquidating Trust

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6 Counsel for USACM Liquidating Trust

7 **UNITED STATES BANKRUPTCY COURT**  
 8 **DISTRICT OF NEVADA**

9 In re:

10 **USA COMMERCIAL MORTGAGE COMPANY,**

11 Debtor.

Case Nos.:

BK-S-06-10725-LBR  
 BK-S-06-10726-LBR  
 BK-S-06-10727-LBR  
 BK-S-06-10728-LBR  
 BK-S-06-10729-LBR

12 In re:  
 13 **USA CAPITAL REALTY ADVISORS, LLC,**

14 Debtor.

JOINTLY ADMINISTERED  
 Chapter 11 Cases

15 In re:  
 16 **USA CAPITAL DIVERSIFIED TRUST DEED**  
 17 **FUND, LLC,**

18 Debtor.

Judge Linda B. Riegle Presiding

19 In re:  
 20 **USA CAPITAL FIRST TRUST DEED FUND,**  
 21 **LLC,**

22 Debtor.

23 **NOTICE OF FILING PROOFS OF  
 24 SERVICE OF SUBPOENAS FOR  
 25 RULE 2004 EXAMINATIONS**

26 In re:

**USA SECURITIES, LLC,**

Debtor.

Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

NOTICE IS GIVEN that the USACM Liquidating Trust herewith files the:

**Proof of Service of Subpoena for Rule 2004 Examination  
 on David M. Parnell, Registered Agent for LandAmerica  
 Partners Title Company f/k/a Partners Title Company  
 (Exhibit A Attached); and**

**Proof of Service of Subpoena for Rule 2004 Examination  
on Herbert S. Kendrick, III, Registered Agent for Title  
Texas, Inc. f/k/a Safeco Texas Land and Title, Inc.  
(Exhibit B Attached).**

DATED: July 10, 2007

## DIAMOND MCCARTHY LLP

LEWIS AND ROCA LLP

By: /s/ Eric D. Madden  
Allan B. Diamond, TX 05801800 (pro hac vice)  
William T. Reid, IV, TX 00788817 (pro hac vice)  
Eric D. Madden, TX 24013079 (pro hac vice)  
909 Fannin, Suite 1500  
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(713) 333-5100 (telephone)  
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By: /s/ Rob Charles  
Susan M. Freeman, AZ 4199 (pro hac vice)  
Rob Charles, NV 6593  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169-5996  
(702) 949-8320 (telephone)  
(702) 949-8321 (facsimile)

*Special Litigation Counsel for  
USACM Liquidating Trust*

*Counsel for USACM Liquidating Trust*

# United States Bankruptcy Court

NORTHERN DISTRICT OF TEXAS

IN RE

USA COMMERCIAL MORTGAGE COMPANY,  
 USA CAPITAL REALTY ADVISORS, LLC,  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
 USA CAPITAL FIRST TRUST DEED FUND LLC,  
 USA SECURITIES, LLC,

**SUBPOENA FOR RULE 2004 EXAMINATION**

CASE NOS. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

DEBTORS.

JOINTLY ADMINISTERED UNDER  
 CASE NO. BK-S-06-10725-LBR  
 IN THE DISTRICT OF NEVADA

AFFECTS: ALL DEBTORS

TO: LandAmerica Partners Title Company  
 f/k/a Partners Title Company  
 By and through its Registered Agent  
 David M. Parnell  
 12201 Merit Drive, Suite 450  
 Dallas, Texas 75251

**X** YOU ARE COMMANDED to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, pursuant to the attached court order, regarding the following topics at the place, date and time specified below:

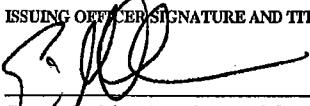
**SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION**

PLACE OF TESTIMONY	DATE AND TIME
DIAMOND MCCARTHY LLP 1201 ELM STREET, SUITE 3400 DALLAS, TEXAS 75270	July 25, 2007 at 1:30 P.M. Or such other mutually agreeable date and/or time

**X** YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

**SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED**

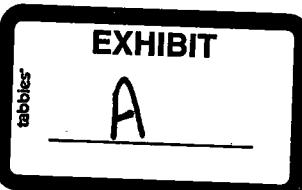
PLACE	DATE
DIAMOND MCCARTHY LLP 1201 ELM STREET, SUITE 3400 DALLAS, TEXAS 75270	July 18, 2007 at 4:00 P.M. Or such other mutually agreeable date and/or time

ISSUING OFFICER'S SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	June 27, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

ERIC D. MADDEN  
 DIAMOND MCCARTHY LLP  
 1201 ELM STREET, 34TH FLOOR  
 DALLAS, TEXAS 75270  
 (214) 389-5306

(00365037;)



## PROOF OF SERVICE

SERVED	DATE	PLACE
	6/27/2007	7557 RAMBLER ROAD, SUITE 1200 DALLAS, TEXAS 75231
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
LAND AMERICA PARTNERS TITLE COMPANY FKA PARTNERS TITLE COMPANY BY DELIVERING TO DAVID M. PARNELL (R.A)	PERSONAL	
SERVED BY (PRINT NAME)	TITLE	
ADIL TADLI	TEXAS PROCESS SERVER	

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on JUNE 27TH 2007

DATE

SIGNATURE OF SERVER

  
5470 LBJ FREEWAY

ADDRESS OF SERVER

DALLAS, TEXAS 75240

Rule 45, Fed.R.Civ.P., Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.

(a) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from such places within the state in which the trial is held; or
- (iii) requires disclosure of privileged or other protected material and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or
- (ii) requires disclosure of an unretained expert's opinion or

information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, OR

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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# United States Bankruptcy Court

NORTHERN DISTRICT OF TEXAS

**IN RE**

USA COMMERCIAL MORTGAGE COMPANY,  
 USA CAPITAL REALTY ADVISORS, LLC,  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
 USA CAPITAL FIRST TRUST DEED FUND LLC,  
 USA SECURITIES, LLC,

**SUBPOENA FOR RULE 2004 EXAMINATION**

CASE Nos. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

**DEBTORS.**

**JOINTLY ADMINISTERED UNDER  
 CASE NO. BK-S-06-10725-LBR  
 IN THE DISTRICT OF NEVADA**

**AFFECTS: ALL DEBTORS**

**TO:** Title Texas, Inc.  
 f/k/a Safeco Texas Land Title, Inc.  
 By and through its Registered Agent  
 Herbert S. Kendrick, III  
 3529 Greenbrier Drive  
 Dallas, Texas 75225

**X** YOU ARE COMMANDED to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, pursuant to the attached court order, regarding the following topics at the place, date and time specified below:

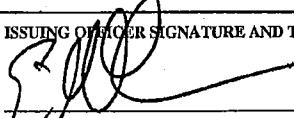
**SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION**

PLACE OF TESTIMONY	DATE AND TIME
DIAMOND MCCARTHY LLP 1201 ELM STREET, SUITE 3400 DALLAS, TEXAS 75270	July 25, 2007 at 9:30 A.M. Or such other mutually agreeable date and/or time

**X** YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

**SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED**

PLACE	DATE
DIAMOND MCCARTHY LLP 1201 ELM STREET, SUITE 3400 DALLAS, TEXAS 75270	July 18, 2007 at 4:00 P.M. Or such other mutually agreeable date and/or time

ISSUING OFFICER SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	June 27, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

ERIC D. MADDEN  
 DIAMOND MCCARTHY LLP  
 1201 ELM STREET, 34TH FLOOR  
 DALLAS, TEXAS 75270  
 (214) 389-5306



## PROOF OF SERVICE

SERVED	DATE 6/27/2007	PLACE 3529 GREENBRIER DRIVE DALLAS, TEXAS 75225
SERVED ON (PRINT NAME) TITLE TEXAS, INC FKA SAFECO TEXAS LAND TITLE, INC BY DELIVERING TO HERBERT S. KENDRICK, III (R.A)		MANNER OF SERVICE PERSONAL
SERVED BY (PRINT NAME) ADIL TADLI	TITLE TEXAS PROCESS SERVER	

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

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DATE



SIGNATURE OF SERVER

5470 LBJ FREEWAY

ADDRESS OF SERVER

DALLAS, TEXAS 75240

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(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials, or inspect the premises, except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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